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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 JAMES PORATH, individually on behalf of all
13 others similarly situated individuals,

14 Plaintiffs,

15 v.

16 LOGITECH, INC., a California corporation,

17 Defendant.

Case No. 3:18-cv-03091-WHA

**DECLARATION OF KERI E. BORDERS
IN SUPPORT OF DEFENDANT
LOGITECH INC.'S OPPOSITION TO
PLAINTIFF'S MOTION FOR CLASS
CERTIFICATION**

Date: November 14, 2019

Time: 8:00 A.M.

Location: Courtroom 12 – 19th Floor

Hon. William Alsup

Action Filed: May 23, 2018

DECLARATION OF KERI E. BORDERS

1. I, Keri E. Borders, declare:

2. I am a partner at Mayer Brown LLP, counsel of record for defendant Logitech Inc. in this matter. I submit this declaration in support of Logitech's opposition to Plaintiff James Porath's motion for class certification. I have personal knowledge of the facts set forth in this declaration and, if called upon to do so, could and would testify competently thereto.

A. Consumer Experience Purchasing Z200 On Laptop Computer

3. On October 15, 2019, I used a laptop computer to access the landing page for the Z200 on the CDW website (<https://www.cdw.com/product/logitech-z200-2.0-channel-speaker-system-for-pc/3190941>). A true and correct copy of the portion of the website that appeared on the screen that was downloaded at my direction is attached hereto as **Exhibit 1**.

4. Once on the CDW webpage for the Z200, I was able to immediately click on the "Add to Cart" button and begin the checkout process without seeing any further information about the number of drivers contained in the product. In other words, I could purchase the Z200 after viewing the product's photo and price, without ever viewing any detailed product descriptions or information regarding number of drivers. *Id.*

B. Consumer Experience Purchasing Z200 On Amazon.com Through An iPhone

5. During the time this case has been pending, I used an Apple iPhone to access the Safari web browser. From Safari, I navigated to the Amazon.com website. Once on Amazon.com, I searched for the Z200 and clicked the appropriate result to navigate to the Z200's product page.

6. At the Amazon.com page for the Z200 product, I was required to scroll down through approximately two iPhone screen-lengths to get to the "Add to Cart" or "Buy Now" options that allowed me to begin the purchase process. True and correct copies of the screens through which I was required to scroll in order to view the "Add to Cart" or "Buy Now" options, that were downloaded at my direction, are attached hereto as **Exhibits 2 and 3**.

7. I was then able to (a) click "Add to Cart" which took me to a new webpage, (b)

click “No Thanks” which took me to a different webpage, and (c) click the “Proceed to Checkout” feature to begin the checkout process, without viewing any further information about the product. True and correct copies of the screenshots of the separate webpages I was required to access to check out, which were downloaded at my direction, are attached hereto as **Exhibits 4 and 5**. In other words, I could purchase the Z200 after viewing the product’s photo and price, without ever viewing any other product descriptions, details, or features (including information regarding number of drivers).

C. AmazonBasics Audio Speakers

8. On March 12, 2019, I received AmazonBasics AC Powered Multimedia External Speakers that I purchased from Amazon.com.

9. Upon receipt of the AmazonBasics speakers, I opened the box, removed the speakers from their packaging, and disassembled the audio speaker enclosures.

10. When I disassembled the AmazonBasics audio speaker enclosures, I discovered that only one of the drivers in each speaker cabinet had a magnet, sound coil, and electronic wires. True and correct copies of photographs of the front, side, and inside of the disassembled speakers reflecting what I saw are attached hereto as **Exhibits 6-8**.

D. CNET Review Regarding Drivers

11. Attached hereto as **Exhibit 9** is a true and correct copy of a review dated October 3, 2005, available at <https://www.cnet.com/reviews/logitech-z4-review/>, a copy of which I caused to be downloaded on October 14, 2019.

E. Variations in State Law Consumer Protection Statutes

12. Attached hereto as **Exhibit 10** is a true and correct copy of a chart prepared at my direction that details particular variations in state law.

F. Deposition Transcripts

13. Attached hereto as **Exhibit 11** is a true and correct copy of excerpts from the transcript of the deposition of named plaintiff James Porath, held on October 8, 2019 in Los Angeles, California.

14. Attached hereto as **Exhibit 12** is a true and correct copy of the first page of Exhibit 7 marked in the deposition of the named plaintiff James Porath, which is also a true and correct copy of a page from the NewEgg.com website as it existed as of October 8, 2019.

G. Other Documents

15. Attached hereto as **Exhibit 13** is a true and correct copy of a document produced by Logitech in discovery, Bates stamped LOG_00014521-23. This document is a PDF of an image of BestBuy.com, as obtained from the Wayback Machine, that was taken at my direction.

H. Discovery of Plaintiff James Porath's Criminal History

16. At the Court's request (ECF No. 63), and without in any way intending to waive attorney-client privilege or work-product protections, I can report the following:

17. On February 15, 2019, as part of a routine investigation into plaintiff's background to prepare for his deposition, a paralegal at Mayer Brown LLP ran a "Comprehensive Report" on James Porath using LexisNexis. The Comprehensive Report indicated that Mr. Porath had a criminal history. On the same day, the paralegal tasked with completing the investigation into Mr. Porath sent an email to me and Logitech's other attorneys of record in this matter reporting the results of the investigation, and attaching the reports that he had run that indicated that Mr. Porath had a criminal history.

18. I have confirmed with all other individuals at Mayer Brown LLP who have participated in this case that prior to this date, no one at Mayer Brown LLP was aware of Mr. Porath's criminal history.

19. Based on our further investigation, the declarations of plaintiff and his attorneys (*see* ECF Nos. 61-1, 61-2, 67, 69, 70, and 72), and plaintiff's deposition, we now believe we have a complete understanding of plaintiff's criminal history.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on October 17, 2019, at Los Angeles, California.

/s/ Keri E. Borders

Keri E. Borders